

**FINDINGS AND DETERMINATION OF THE COMMISSIONER
PURSUANT TO [IC 13-14-9-8](#) AND DRAFT RULE
LSA Document #16-162**

EMISSIONS REPORTING FOR LAWRENCEBURG TOWNSHIP, DEARBORN COUNTY**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for an amendment to [326 IAC 2-6-1](#) to include Lawrenceburg Township, Dearborn County on the list of marginally classified nonattainment areas required to submit emissions reporting information. IDEM is soliciting written comment on the draft rule language and will schedule a public hearing before the Environmental Rules Board (board) for consideration of adoption of these rules.

CITATIONS AFFECTED: [326 IAC 2-6-1](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-17-3](#).

STATUTORY REQUIREMENTS

[IC 13-14-9-8](#) recognizes that, under certain circumstances, it may be appropriate to reduce the number of public comment periods and public hearings usually provided for under the [IC 13-14-9](#) environmental rulemaking process. In cases where the commissioner determines that there is no reasonably anticipated benefit from a second public comment period and first public hearing to either the environment or persons regulated or otherwise affected by the proposed rule, IDEM may forgo these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for adoption. Two opportunities for public comment (with this notice and at the public hearing prior to adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by [IC 13-14-9-8](#), the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-8](#).

The statute provides for this shortened rulemaking process if the commissioner determines that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) an amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in [IC 13-14-9-7\(a\)\(2\)](#) from:

(A) exposing the rule to diverse public comment under [IC 13-14-9-3](#) or [IC 13-14-9-4](#);

(B) affording interested or affected parties the opportunity to be heard under [IC 13-14-9-3](#) or [IC 13-14-9-4](#);

and

(C) affording interested or affected parties the opportunity to develop evidence in the record collected under [IC 13-14-9-3](#) and [IC 13-14-9-4](#).

BACKGROUND

Under Section 107(d)(1)(B) of the Clean Air Act (CAA), Lawrenceburg Township in Dearborn County was designated as a marginally classified nonattainment area for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) by the United States Environmental Protection Agency (U.S. EPA) on May 21, 2012 (77 FR 30118). Sections 110 and 182 of the CAA address the requirements related to nonattainment areas.

Under Section 182(a)(3)(B) of the CAA, and as a prerequisite for redesignation of a nonattainment area to attainment, each state with an ozone nonattainment area is required to revise its State Implementation Plan (SIP) to include a requirement that the owner or operator of each stationary source of nitrogen oxides (NO_x) or volatile organic compounds (VOCs) provide the state with a statement showing actual emissions of NO_x or VOCs from that source.

In September 2015, IDEM prepared a draft document, "Request for Redesignation and Maintenance Plan for Ozone Attainment in the Indiana Portion of the Cincinnati-Hamilton, Ohio, Kentucky, Indiana (OH-KY-IN) 2008 8-Hour Ozone Nonattainment Area", for submittal to U.S. EPA to redesignate the area to attainment for ozone.

The Cincinnati-Hamilton, OH-KY-IN, area has recorded three (3) years of complete, quality-assured ambient air quality monitoring data for the years 2013 through 2015, demonstrating attainment of the 8-hour ozone standard. There is a significant economic benefit of redesignation to attainment for Lawrenceburg Township, Dearborn County, as the current designation of nonattainment discourages industrial growth in the area. This rulemaking is a required component of a complete and approvable redesignation request. Once the completed redesignation request is approved by U.S. EPA and published in the Federal Register, Lawrenceburg Township in Dearborn County can be redesignated to attainment through a future state rulemaking, allowing new major sources and major modifications at existing sources to be permitted under the Prevention of Significant Deterioration (PSD) rules in [326 IAC 2-2](#), rather than the more restrictive Emission Offset rules in [326 IAC 2-3](#).

IDEM is proposing to amend the Emission Reporting rule at [326 IAC 2-6](#) to apply the reporting thresholds for nonattainment areas to the 8-hour ozone nonattainment area of Lawrenceburg Township in Dearborn County. Sources in areas listed in [326 IAC 2-6-1\(a\)](#) are required to report emissions of NO_x and VOCs if they emit greater than twenty-five (25) tons per year of either pollutant.

When this rule is complete, it will be submitted to U.S. EPA with the redesignation request for approval into the Indiana SIP to redesignate Lawrenceburg Township, Dearborn County to attainment for the 2008 8-hour ozone standard.

[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This draft rule imposes no restrictions or requirements because it is a direct adoption of federal requirements that are applicable to Indiana and contains no amendments that have a substantive effect on the scope or application of the federal rule.

Potential Fiscal Impact

There will be no fiscal impact from the implementation of this rule beyond that already imposed by federal law. This rulemaking requires emissions reporting for sources in Lawrenceburg Township in Dearborn County that emit VOCs or NO_x above twenty-five (25) tons per year, as required by Section 182(a)(3)(B) of the Clean Air Act. At this time, there are no known sources with emissions of VOCs or NO_x greater than twenty-five (25) tons per year that are not already required to report.

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Keelyn Walsh, Rules Development Branch, Office of Legal Counsel at (317) 232-8229 or (800) 451-6027 (in Indiana).

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Patricia Daniel
IDEM Small Business Regulatory Coordinator
IGCN 1316
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-6562 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 4-4-35-8](#) is:

Erik Scheub
Office of Small Business and Entrepreneurship
One North Capitol, Suite 600
Indianapolis, IN 46204
(317) 232-5679
ombudsman@osbe.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 4-4-35-8](#), specifically [IC 4-4-35-8\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Steven N. Howell
IDEM Small Business Assistance Program Ombudsman

IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8587 or (800) 451-6027
snhowell@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared findings regarding rulemaking on emissions reporting as required by federal rule. These findings are prepared under [IC 13-14-9-8](#) and are as follows:

- (1) This rule is the direct adoption of federal requirements that are applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by federal law to adopt these requirements under the Clean Air Act as established by the U.S. Environmental Protection Agency.
- (3) The environment and persons regulated or otherwise affected by the proposed rule will benefit from prompt adoption of this rule, because it will bring Lawrenceburg Township, Dearborn County into compliance with federal law.
- (4) I have determined that, under the specific circumstances pertaining to this rule, there would be no reasonably anticipated benefit to the environment or to persons regulated or otherwise affected by the proposed rule from the second written comment period under [IC 13-14-9-3](#) or [IC 13-14-9-4](#), or from the first public hearing under [IC 13-14-9-5\(a\)\(1\)](#).
- (5) The draft rule is hereby incorporated into these findings.

Carol S. Comer
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:
LSA Document #16-162 Emissions Reporting
Keelyn Walsh
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251
- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 232-8922.
- (3) By electronic mail to kwash@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**
- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than May 27, 2016. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, (317) 232-8229 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. [326 IAC 2-6-1](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 2-6-1](#) Emissions reporting for Lawrenceburg Township, Dearborn County

Authority: [IC 13-14-8](#); [IC 13-17-3](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to all of the following:

(1) Sources required to have ~~an a~~ **a Part 70** operating permit under [326 IAC 2-7](#). ~~Part 70 Permit Program.~~

(2) Sources located in the following counties that emit volatile organic compounds (VOC) or oxides of nitrogen (NO_x) into the ambient air at levels equal to or greater than twenty-five (25) tons per year:

(A) Lake.

(B) Porter.

(C) LaPorte.

(D) Lawrenceburg Township, Dearborn County.

(3) Sources that emit lead into the ambient air at levels equal to or greater than five (5) tons per year.

(b) All sources permitted by the department are subject to section 5 of this rule **concerning** additional information requests.

(c) Sources covered by subsection (a) must comply with the compliance schedule in section 3 of this rule.

(Air Pollution Control Division; [326 IAC 2-6-1](#); filed Nov 12, 1993, 4:00 p.m.: 17 IR 732; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2210; filed Jul 14, 2006, 1:25 p.m.: [20060809-IR-326050078FRA](#))

[Notice of Public Hearing](#)

Posted: 04/27/2016 by Legislative Services Agency

An [html](#) version of this document.